IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SECOND APPEAL NO.331 OF 2000

Popatlal Botharam Vaidya ...Appellant

Vs.

Smt.Parubai Namdeo Phadatare
(since deceased through heirs) ...Respondent

Mr.S.N.Chandrachud for the Appellant
Mr.B.D.Joshi and Ms P.N.Diwan for the Respondent.

CORAM: A.S.OKA,J.
DATE : FEBRUARY 17, 2005.

P.C.:

1. Shri Chandrachud for the Appellant submitted that in view of Section 26 A(b) of Chapter IV A-1 of the Provincial Small Causes Court Act,1887 is applicable to the State of Maharashtra, Second Appeal is not maintainable. He therefore seeks permission to withdraw this Second Appeal with liberty to file appropriate proceedings for challenging the impugned Judgment and Decree.

2. Accordingly, Second Appeal is dismissed as withdrawn with liberty as prayed. To enable the Appellant to file appropriate proceeding the decree for possession shall not be executed for a period of four weeks from today, if not executed till today.

3. Parties to act upon an authenticated copy of this order.

JUDGE.